

REAFFIRMING THE PEACEFUL AND COLLABORATIVE RESOLUTION
OF MARITIME AND JURISDICTIONAL DISPUTES IN THE SOUTH
CHINA SEA AND THE EAST CHINA SEA AS PROVIDED FOR
BY UNIVERSALLY RECOGNIZED PRINCIPLES OF INTER-
NATIONAL LAW, AND REAFFIRMING THE STRONG SUPPORT
OF THE UNITED STATES GOVERNMENT FOR FREEDOM OF
NAVIGATION AND OTHER INTERNATIONALLY LAWFUL USES
OF SEA AND AIRSPACE IN THE ASIA-PACIFIC REGION

MARKUP

BEFORE THE

SUBCOMMITTEE ON ASIA AND THE PACIFIC

OF THE

COMMITTEE ON FOREIGN AFFAIRS

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

ON

H. Res. 714

SEPTEMBER 17, 2014

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WEDNESDAY, SEPTEMBER 17, 2014

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ASIA AND THE PACIFIC,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 2 o'clock p.m., in room 2172 Rayburn House Office Building, Hon. Steve Chabot (chairman of the subcommittee) presiding.

Mr. CHABOT. The committee will come to order. Pursuant to notice, I call up H. Res. 714, a resolution reaffirming the peaceful and collaborative resolution of maritime and jurisdictional disputes in the South China Sea and the East China Sea for purposes of markup and move its recommendation to the full committee. Without objection, the resolution is considered as read and open to amendment at any point. I will now recognize myself for the purpose of speaking on the resolution.

Tensions in the South China and East China Seas have grown significantly over the last year. Beijing placed an oil rig in territorial waters claimed by Vietnam; China unilaterally established an air defense identification zone (ADIZ) over the East China Sea; and the Philippines filed an arbitration case against China's assertions over waters within the Philippines' exclusive economic zone. We have witnessed a dangerously aggressive China trying to assert greater control over these territories to change the regional status quo in a way that violates core principles of international law; and we have seen our friends and allies in the region respond in defense by doubling their military spending and building their navies.

A dangerous pattern is emerging, but a strategy to effectively manage the growth of these territorial and jurisdictional tensions is, at least at this time, not yet clear.

H. Res. 714, introduced by my good friend, the ranking member, Mr. Faleomavaega from American Samoa, reaffirms U.S. commitment to the peaceful resolutions of territorial disputes in the South China and East China Seas. It recognizes the need to uphold international law as a way to safeguard the rights and freedoms of all

nations in the Asia-Pacific region and further emphasizes the need for China to act as a responsible international stakeholder that respects international law, standards, and institutions.

I am a co-sponsor of this resolution because the U.S. must support its friends and allies in the region against China's increasingly hostile behavior. We must help facilitate a collaborative process to resolve these disputes. There is no other issue in the Asia-Pacific region more worrisome than the rising tensions we are seeing as a result of China's efforts to coercively change and destabilize the regional status quo.

As we will discuss in the hearing following today's markup—which will begin very shortly after the markup concludes—relations with China deserve more attention because the list of conflicts and challenges is growing in the range of security, political, and economic matters as is the risk of miscalculation by our two nations—China and the United States.

I support this resolution and I would like to yield to the principal sponsor of the legislation, Mr. Faleomavaega, for the purpose of making an opening statement.

[The information referred to follows:]

113TH CONGRESS
2D SESSION

H. RES. 714

Reaffirming the peaceful and collaborative resolution of maritime and jurisdictional disputes in the South China Sea and the East China Sea as provided for by universally recognized principles of international law, and reaffirming the strong support of the United States Government for freedom of navigation and other internationally lawful uses of sea and airspace in the Asia-Pacific region.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2014

Mr. PALEOMAVEGA (for himself, Mr. CHABOT, Mr. ENGEL, Ms. ROSELEHTINEN, and Ms. BORDALLO) submitted the following resolution; which was referred to the Committee on Foreign Affairs

RESOLUTION

Reaffirming the peaceful and collaborative resolution of maritime and jurisdictional disputes in the South China Sea and the East China Sea as provided for by universally recognized principles of international law, and reaffirming the strong support of the United States Government for freedom of navigation and other internationally lawful uses of sea and airspace in the Asia-Pacific region.

Whereas the maritime domains of the Asia-Pacific region, which include both the sea and airspace above the domains, are critical to the region's prosperity, stability, and security, including global commerce;

Whereas the maritime domain in the Asia-Pacific region between the Pacific and Indian Oceans includes critical sea lines of commerce and communication;

Whereas China, Vietnam, the Philippines, Taiwan, Malaysia, and Brunei have disputed territorial claims over the Spratly Islands, and China, Taiwan, and Vietnam have disputed territorial claims over the Paracel Islands;

Whereas, although the United States Government is not a claimant in maritime disputes in either the East China or South China Seas, the United States has an interest in the peaceful diplomatic resolution of disputed claims in accordance with international law, in freedom of navigation and overflight, and in the free-flow of commerce free of coercion, intimidation, or the use of force;

Whereas in 2002, the Association of Southeast Asian Nations (ASEAN) and China committed to developing an effective Code of Conduct;

Whereas that declaration committed all parties to those territorial disputes to “reaffirm their respect for and commitment to the freedom of navigation in and over flight above the South China Sea as provided for by the universally recognized principles of international law”, and to “resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force”;

Whereas since that time, tensions over the disputed maritime and territorial areas have increased;

Whereas on September 2010, tensions escalated in the East China Sea near the Senkaku (Diaoyutai) Islands, a territory under the legal administration of Japan, when a

Chinese fishing vessel deliberately rammed Japanese Coast Guard patrol boats;

Whereas on February 25, 2011, a frigate from the People's Liberation Army Navy (PLAN) fired shots at three fishing boats from the Philippines;

Whereas on March 2, 2011, the Government of the Philippines reported that two patrol boats from China attempted to ram one of its surveillance ships;

Whereas on May 26, 2011, a maritime security vessel from China cut the cables of an exploration ship from Vietnam, the Binh Minh, in the South China Sea in waters near Cam Ranh Bay in the exclusive economic zone of Vietnam;

Whereas on May 31, 2011, three Chinese military vessels used guns to threaten the crews of four Vietnamese fishing boats while they were fishing in the waters of the Spratly Islands;

Whereas on June 9, 2011, three vessels from China, including one fishing vessel and two maritime security vessels, ran into and disabled the cables of another exploration ship from Vietnam, the Viking 2, in the exclusive economic zone of Vietnam;

Whereas on July 22, 2011, an Indian naval vessel, sailing about 45 nautical miles off the coast of Vietnam, was warned by a Chinese naval vessel that it was allegedly violating Chinese territorial waters;

Whereas in April 2012, tensions escalated between the Philippines and China following a standoff over the Scarborough Shoal;

Whereas in June 2012, China's cabinet, the State Council, approved the establishment of the city of Sansha to oversee the areas claimed by China in the South China Sea;

Whereas in July 2012, Chinese military authorities announced that they had established a corresponding Sansha garrison in the new prefecture;

Whereas on June 23, 2012, the China National Offshore Oil Corporation invited bids for oil exploration in areas within 200 nautical miles of the continental shelf and within the exclusive economic zone of Vietnam;

Whereas in January 2013, a Chinese naval ship allegedly fixed its weapons-targeting radar on Japanese vessels in the vicinity of the Senkaku islands in the East China Sea, and, on April 23, 2013, eight Chinese marine surveillance ships entered the 12-nautical-mile territorial zone off the Senkaku Islands, further escalating regional tensions;

Whereas on May 9, 2013, a fatal shooting incident occurred in which shots fired from a Philippine Coast Guard patrol boat resulted in the death of a Taiwanese fisherman;

Whereas on May 1, 2014, China's state-owned energy company, CNOOC, anchored its deepwater drilling rig Hai Yang Shi You 981 (HD-981) in Vietnamese waters and deployed over 80 vessels, including seven military vessels, to support its provocative actions and attempt to change the status quo by force;

Whereas Chinese vessels accompanying Hai Yang Shi You 981 (HD-981) intimidated Vietnamese Coast Guard ships in violation of the Convention on the International Regulations for Preventing Collisions at Sea, ramming

multiple Vietnamese vessels, and using helicopters and water cannons to obstruct others;

Whereas on May 5, 2014, vessels from the Maritime Safety Administration of China (MSAC) established an exclusion zone with a radius of three nautical miles around Hai Yang Shi You 981 (HD-981);

Whereas China's actions in support of the Hai Yang Shi You 981 (HD-981) drilling activity constitute a unilateral attempt to change the status quo by force;

Whereas, without prior consultations with the United States, Japan, the Republic of Korea or other nations of the Asia-Pacific region, China declared an Air Defense Identification Zone (ADIZ) over the East China Sea on November 23, 2013;

Whereas China announced that all aircraft, even if they do not intend to enter the ADIZ airspace, would have to submit flight plans, maintain radio contact, and follow directions from the Chinese Ministry of National Defense or face "emergency defensive measures";

Whereas the "rules of engagement" declared by China, including the "emergency defensive measures", are in violation of the concept of "due regard for the safety of civil aviation" under the Chicago Convention of the International Civil Aviation Organization and thereby are a departure from accepted practice;

Whereas China's declaration of an ADIZ over the East China Sea has contributed to increased uncertainty and unsafe conditions in the maritime region in East Asia and the broader Asia-Pacific region;

Whereas freedom of navigation and other lawful uses of sea and airspace in the Asia-Pacific region are embodied in international law, not granted by certain states to others;

Whereas the United States Government expressed profound concerns with China's unilateral, provocative, dangerous, and destabilizing declaration of such a zone, including the potential for misunderstandings and miscalculations by aircraft operating lawfully in international airspace;

Whereas China's declaration of an ADIZ in the East China Sea will not alter how the United States Government conducts operations in the region or the unwavering United States commitment to peace, security and stability in the Asia-Pacific region;

Whereas other governments in the Asia-Pacific region, including the Governments of Japan, Korea, Philippines, Australia and Indonesia have expressed deep concern about China's declaration of such a zone, regarding it as an effort to unduly infringe upon the freedom of flight in international airspace and to change the status quo that could escalate tensions and potentially cause unintentional consequences in the East China Sea;

Whereas the United States Government does not support unilateral actions taken by any claimant seeking to change the status quo through the use of coercion, intimidation, or military force;

Whereas the United States Government is deeply concerned about unilateral actions taken by any state to prevent any other state from exercising its sovereign rights to the resources of the exclusive economic zone (EEZ) and continental shelf by making claims to those areas that have no apparent basis in international law; declarations of ad-

ministrative and military districts in contested areas in the South and East China Seas; and the imposition of new fishing regulations covering disputed areas, which have raised tensions in the region;

Whereas international law is important to safeguard the rights and freedoms of all states in the Asia-Pacific region; and

Whereas a peaceful and prosperous China, which acts as a responsible international stakeholder and which respects international laws, standards, and institutions, will enhance security and peace in the Asia-Pacific region: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) reaffirms the strong support of the United
3 States for the peaceful resolution of maritime territorial disputes in the South China Sea and the East
4 China Sea and pledges continued efforts to facilitate
5 a collaborative, peaceful process to resolve these disputes;
6
7

8 (2) reaffirms the strong support for freedom of
9 navigation and over flight and condemns coercive
10 and threatening actions or the use of force to impede these freedoms in international maritime domains and airspace by military or civilian vessels, to
11 alter the status quo or to destabilize the Asia-Pacific region;
12
13
14

15 (3) urges China to refrain from implementing
16 the declared East China Sea Air Defense Identifica-

1 tion Zone (ADIZ), which is contrary to freedom of
2 overflight in international airspace, and to refrain
3 from taking similar provocative actions elsewhere in
4 the Asia-Pacific region;

5 (4) urges the Association of Southeast Asian
6 Nations (ASEAN), all United States allies and part-
7 ners, and all claimants to amiably and fairly resolve
8 these outstanding disputes, including through devel-
9 oping a Code of Conduct for the South China Sea;

10 (5) supports the continuation of operations by
11 the United States to support freedom of navigation
12 in international waters and air space in the South
13 China Sea and the East China Sea; and

14 (6) encourages the continuation of efforts by
15 the United States Government to strengthen part-
16 nerships in the region to build capacity for maritime
17 domain awareness in support of freedom of naviga-
18 tion, maintenance of peace and stability, and respect
19 for universally recognized principles of international
20 law.

Mr. FALCOMA. Mr. Chairman, thank you for holding this markup on House Resolution 714. I thank you for your friendship, as well as your support of this bipartisan resolution. Again, I commend you for your leadership and taking care in following up on this proposal.

I also want to thank our ranking member, our former chairman, Congresswoman Ros-Lehtinen, Congressman Bera, and Congressman Bordallo for co-sponsoring this important legislation. Also Resolution 714 will provide peaceful and corroborative resolution of maritime and jurisdictional disputes in South China and East China Seas as provided for by universally-recognized principles of international law and reaffirms the strong support of the United States Government for affirmative navigation and other international lawful uses of sea and air spaces in the Asia Pacific region.

Mr. Chairman, this resolution is similar to Senate Resolution 4102 which was passed in July of this year in response to China's aggressive acts which threaten the security structure of the region. In May of this year, China anchored its HD-981 oil rig within the exclusive economic zone of Vietnam and deployed over 80 missiles including 7 military vessels to support its attempt to change the status quo by force.

Since 2009, China has escalated tensions in the South China and East China Sea. China has increased oil explorations in disputed areas, implemented measures which attempt to change crucial regulations, cut the cables of a Vietnamese exploration ship, used guns to threaten Vietnamese fishing boats, warned an Indian naval vessel, rammed Japanese patrol boats, fired shots at a Filipino fishing boat, caned a Taiwanese fisherman, conducted military exercises in the South China Sea to flex its power. Added to other claimants, declared an air defense identification zone or ADIZ over the East China Sea and this is just the tip of the iceberg, Mr. Chairman.

The Governments of Japan, Korea, the Philippines, Australia and Indonesia have expressed deep concern about China's declaration of an ADIZ over the East China Sea. Such a zone violates international norms and accepted practices. With the successful passage of Senate Resolution 412, the Senate has made it very clear that the United States will not allow China's announcement of an ADIZ to alter how the United States Government conducts operations in the region.

Freedom of navigation and other lawful uses of sea and air spaces in the Asia Pacific region are embodied in international laws and not created by China or any other state to others. China must respect international laws governing sea and air. Left unchecked, Mr. Chairman, I believe China will continue to assert its way through the region and such provocative actions on the part of China will not bode well for the region, nor for the United States, especially since these are not only local or regional issues, but serious international issues that impact the safety in commerce of our global community.

I commend the Government of Vietnam for its peaceful, but courteous stand which led to China's withdrawal of Chinese vessel HD-981 oil rig and I also appreciate the Governments of Taiwan and Japan for peacefully reaching agreement to jointly share fishing re-

sources in their overlapping EEZ zones through the East China Sea Initiative. Resolutions can be achieved through peaceful means and so I sincerely hope that China and the association of Southeast Asia nations will develop an effective code of conduct and I ask respectfully my colleagues to support this resolution.

Thank you, Mr. Chairman.

Mr. CHABOT. Thank you very much, Mr. Faleomavaega and we thank you for your leadership on this issue. As I indicated I support the measure and would urge its passage.

Are there any other members who seek recognition? If not, are there any amendments? If not, the question occurs on the motion to report the resolution favorably.

All in favor say aye.

Any opposed say nay.

It appears that the ayes have it. And in the opinion of the Chair, the ayes have it and the motion is approved and the resolution is reported favorably. Without objection, the resolution will be reported favorably to the full committee. And that takes care—

Mr. FALEOMAVAEGA. Will the chairman yield?

Mr. CHABOT. I would be happy to yield to the gentleman.

Mr. FALEOMAVAEGA. I realize that members of our committee, other members of our committee are not here, but this is not to give the impression that this has not been through the approval process of our committee. There are other members who do support it, but they are not here physically. And I just want to make sure that for the record that the public will understand the situation.

Mr. CHABOT. Yes, I agree with the gentleman's statement and there are a lot of markups going on. I am supposed to be in another markup which is going on right now in another committee and I am sure they are happening all over the place. It is probably the last week before the election which is about a month off and there is a lot of business that is trying to be wrapped up in this week.

Mr. FALEOMAVAEGA. It is the nature of the beast.

Mr. CHABOT. It is the nature of the beast. That is for sure. So at this time, the committee will stand adjourned only until we have an opportunity to switch over the necessary places at the desk and as soon as our witnesses arrive, we will get started on the hearing. So we are adjourned for a short period of time.

[Whereupon, at 2:15 p.m., the subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE RECORD

SUBCOMMITTEE MARKUP NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Subcommittee on Asia and the Pacific
Steve Chabot (R-OH), Chairman

September 11, 2014

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN meeting of the Subcommittee on Asia and the Pacific, to be held in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at <http://www.foreignaffairs.house.gov>):

DATE: Wednesday, September 17, 2014

TIME: 2:00 p.m.

MARKUP OF: H. Res. 714, Reaffirming the peaceful and collaborative resolution of maritime and jurisdictional disputes in the South China Sea and the East China Sea as provided for by universally recognized principles of international law, and reaffirming the strong support of the United States Government for freedom of navigation and other internationally lawful uses of sea and airspace in the Asia-Pacific region.

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.



COMMITTEE ON FOREIGN AFFAIRS
MINUTES OF SUBCOMMITTEE MARKUP

MINUTES OF SUBCOMMITTEE ON Asia & the Pacific MARKUP

Day Wednesday Date 9/17/2014 Room 2172

Starting Time 2:00 p.m. Ending Time 2:15 p.m.

Recesses ☐ (to) (to) (to) (to) (to) (to)

Presiding Member(s)

Chairman Steve Chabot (R-OH), Ranking Member Eni Faleomavaega (D-AS)

Check all of the following that apply:

Open Session ☒

Executive (closed) Session ☐

Televised ☒

Electronically Recorded (taped) ☒

Stenographic Record ☒

BILLS FOR MARKUP: *(Include bill number(s) and title(s) of legislation.)*

H. Res 714 Reaffirming the peaceful and collaborative resolution of maritime and jurisdictional disputes in the South China Sea and the East China Sea as provided for by universally recognized principles of international law, and reaffirming the strong support of the United States Government for freedom of navigation and other internationally lawful uses of sea and airspace in the Asia-Pacific region.

COMMITTEE MEMBERS PRESENT:

NON-COMMITTEE MEMBERS PRESENT:

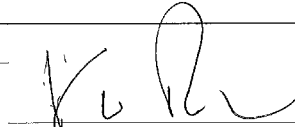
STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

ACTIONS TAKEN DURING THE MARKUP: *(Attach copies of legislation and amendments.)*

RECORDED VOTES TAKEN (FOR MARKUP): *(Attach final vote tally sheet listing each member.)*

<u>Subject</u>	<u>Yeas</u>	<u>Nays</u>	<u>Present</u>	<u>Not Voting</u>
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TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED 2:15 p.m.


Subcommittee Staff Director

9/17/14 Subcommittee on Asia & the Pacific Markup Summary

H. Res. 714, Reaffirming the peaceful and collaborative resolution of maritime and jurisdictional disputes in the South China Sea and the East China Sea as provided for by universally recognized principles of international law, and reaffirming the strong support of the United States Government for freedom of navigation and other internationally lawful uses of sea and airspace in the Asia-Pacific region.

The Chair called up the resolution for consideration by the Subcommittee

No Amendment in the Nature of a Substitute was offered

H. Res. 714 was agreed to by voice vote and was ordered favorably reported to the Full Committee by unanimous consent.

The Committee adjourned.



Statement for the Record
Submitted by Mr. Connolly of Virginia

H. Res. 714, Reaffirming the peaceful and collaborative resolution of maritime and jurisdictional disputes in the South China Sea and the East China Sea as provided for by universally recognized principles of international law, and reaffirming the strong support of the United States Government for freedom of navigation and other internationally lawful uses of sea and airspace in the Asia-Pacific region.

I thank the Chairman and Ranking Member for bringing this important and timely resolution to the Subcommittee for markup. I know the Ranking Member has worked tirelessly on this measure, as he has on countless initiatives regarding the Asia-Pacific throughout his career.

Unresolved maritime and jurisdictional disputes in the South China Sea and the East China Sea are an impediment to the security and economic prosperity of the Asia-Pacific. The U.S. prioritized the stability and growth of the region by undergoing a strategic rebalance to the Asia-Pacific. The success of the rebalance is predicated on the United States' ability to promote security, open markets, and greater respect for human rights in the region. This will require coordination with our regional allies and strategic partners on issues of diplomacy and security cooperation to resolve disputes and maintain peace.

H. Res. 714 addresses a growing cause for concern in the Asia-Pacific that threatens the principles on which a successful rebalance will depend. On several occasions in recent years, maritime and jurisdictional disputes in the South China Sea and the East China Sea have produced direct confrontations between China and allies of the United States. As was the case with the deepwater drilling rig Hai Yang Shi You 981, unilateral actions and declarations by China have risked a broader conflict.

The U.S. and its partners must remain committed to the principles of peace, stability, and security enshrined in this measure. As a co-chair of the Congressional Taiwan Caucus, I have been pleased to witness Taiwan adopt these principles. In August 2014, U.S. Secretary of State John Kerry, delivered a policy speech at the East-West Center in Hawaii, in which he stated that the fisheries agreement signed in 2013 between Japan and Taiwan demonstrated that "it's possible to promote regional stability despite conflicting claims." In February 2014, U.S. Assistant Secretary of State for East Asian and Pacific Affairs Daniel Russel, testifying before this Subcommittee, stated that the principles of Taiwan President Ma Ying-jeou's East China Sea Peace Initiative "are at the heart of the U.S. strategy and the U.S. effort, namely, respect for international law and peaceful resolution of disputes."

Again, I thank the Chairman and Ranking Member for bringing this measure before the Subcommittee. The rebalance to the Asia-Pacific represents an enormous commitment of resources by the U.S., a matter this Subcommittee examined in detail with multiple hearings in April and May of this year. We must promote a framework of engagement that protects our significant investment and maintains peace for the people of the Asia-Pacific.